

AMENDMENT TO H.R. 964**OFFERED BY MR. RUSH**

(Page and line numbers refer to the committee print of the subcommittee reported bill, April 19, 2007)

Page 9, strike lines 7 through 14 and insert the following:

1 (A) the only information collected by the
2 software regarding the user's internet activity,
3 and used to deliver advertising to, or display
4 advertising on, the protected computer, is—

5 (I) information regarding Web pages
6 within a particular Web site;

7 (ii) in the case of any Internet-based
8 search function, user-supplied search terms
9 necessary to complete the search and re-
10 turn results to the user;

11 (B) such information collected is not sent
12 to a person other than—

13 (I) the provider of the Web site
14 accessed or Internet-based search function;

15 or

Page 16, after line 2, insert the following:

16 (f) STUDY AND ADDITIONAL EXEMPTION.—

1 (1) STUDY AND REPORT.—The Commission
2 shall conduct a study to determine the applicability
3 of the information collection prohibitions of this sec-
4 tion to information that is input directly by users in
5 a field provided on a website. The study shall exam-
6 ine—

7 (A) the nature of such fields for user
8 input;

9 (B) the use of a user's information once
10 input and whether such information is sent to
11 a person other than the provider of the Web
12 site;

13 (C) whether such information is used to
14 deliver advertisements to the user's computer;
15 and

16 (D) the extent of any notice provided to
17 the user prior to such input.

18 (2) REPORT.—The Commission shall transmit a
19 report on such study to the Committee on Energy
20 and Commerce of the House of Representatives and
21 the Committee on Commerce, Science, and Trans-
22 portation of the Senate not later than the expiration
23 of the 6-month period that begins on the date on
24 which final regulations are issued under section 9.
25 The requirements of subchapter I of chapter 35 of

1 title 44, United States Code, shall not apply to the
2 report required under this subsection.

3 (3) REGULATION.—If the Commission finds
4 that users have adequate notice regarding the uses
5 of any information input directly by the user in a
6 field provided on a website, such that an exemption
7 from the requirements of this section, or a modifica-
8 tion of the notice required by this section is appro-
9 priate for such information, and that such an ex-
10 emption or modification is consistent with the public
11 interest, the protection of consumers, and the pur-
12 poses of this Act, the Commission may prescribe
13 such an exemption or modification by regulation.

Page 19, line 1, strike paragraph (1) and insert the
following:

14 (1) any monitoring of, or interaction with, a
15 protected computer—

16 (A) in connection with the provision of a
17 network access service or other service or prod-
18 uct with respect to which the user of the pro-
19 tected computer is an actual or prospective cus-
20 tomer, subscriber, registered user, or account
21 holder;

22 (B) by the provider of that service or prod-
23 uct or with such provider's authorization; and

1 (C) that involves or enables the collection
2 of information about the user's activities only
3 with respect to the user's relationship with or
4 use of such service or product,
5 to the extent that such monitoring or interaction is
6 for the purpose of network security, computer secu-
7 rity, diagnostics, technical support or repair, net-
8 work management, authorized updates of software,
9 or for the detection or prevention of fraudulent ac-
10 tivities; or

Page 20, after line 15, insert the following:

11 (e) SERVICES PROVIDED BY CABLE OPERATORS AND
12 SATELLITE CARRIERS.—It shall not be a violation of sec-
13 tion 3 for a satellite carrier (as such term is defined in
14 section 338(k) of the Communications Act of 1934 (47
15 U.S.C. 338(I)) or cable operator (as such term is defined
16 in section 602 of such Act (47 U.S.C. 522)) to—

17 (1) utilize a navigation device (as such term is
18 defined in the rules of the Federal Communications
19 Commission);

20 (2) interact with such a navigation device; or

21 (3) transmit software to or execute software in-
22 stalled on such a navigation device to provide service
23 or collect or disclose subscriber information,

1 if the provision of such service, the utilization of or the
2 interaction with such device, or the collection of or disclo-
3 sure of such information, is subject to section 338(I) or
4 section 631 of the Communications Act of 1934.

Page 22, line 14, strike “, including tracking cookies,”.

Page 22, line 16, insert after the period the following: “The report shall examine the extent to which cookies are or may be used to transmit to a third party personally identifiable information of a computer owner or user, information regarding Web pages accessed by the owner or user, or information regarding advertisements previously delivered to a computer, for the purpose of—

- 5 (1) delivering or displaying advertising to the
6 owner or user; or
7 (2) assisting the intended recipient to deliver or
8 display advertising to the owner, user, or others.

Page 23, strike lines 1 through 13.

Page 23, line 14, strike “(c)” and insert “(b)”.

Page 23, line 16, strike “(d)” and insert “(c)”.

Page 26, strike lines 10 through 23 and insert the following:

1 (B) EXCEPTIONS.—Such term does not in-
2 clude—

3 (I) computer software that is placed
4 on the computer system of a user by an
5 Internet service provider, interactive com-
6 puter service, or Internet Web site solely to
7 enable the user subsequently to use such
8 provider or service or to access such Web
9 site; or

10 (ii) a text or data file known as a
11 cookie, to the extent that the text or data
12 file—

13 (I) is used, written to, or placed
14 on the computer of a user by an
15 Internet service provider, interactive
16 computer service, or Internet website,
17 or any entity acting with the author-
18 ization of and on behalf of such Inter-
19 net service provider, interactive com-
20 puter service, or Internet website; and

21 (II) can be read or recognized
22 solely to return information to such
23 Internet service provider, interactive
24 computer service, or Internet website,
25 or any entity acting with the author-

1 ization of and on behalf of such Inter-
2 net service provider, interactive com-
3 puter service, or Internet website.